



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to:
OSB1999-0270-RI

August 25, 2000

Colonel Randall J. Butler
Department of the Army
Corps of Engineers, Portland District
P.O. Box 2946
Portland, OR 97208-2946

Dear Colonel Butler:

Re: Withdrawal of the Biological Opinion for the Columbia River Federal Navigation
Channel Deepening Project and Request to Reinitiate Consultation

On December 16, 1999, National Marine Fisheries Service (NMFS) issued a biological opinion for the Columbia River Federal Navigation Channel Deepening Project (Project). The objective of the biological opinion was to determine whether proposed deepening of the Federal Navigation Channel jeopardized the continued existence of the 13 salmonid species listed or proposed for listing under the Endangered Species Act (ESA), or resulted in the destruction or adverse modification of their designated or proposed critical habitat.

Pursuant to the consultation regulations (50 CFR 402.16) reinitiation of formal consultation is required if: 1) New information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in the consultation; 2) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the consultation; or 3) a new species is listed or critical habitat is designated that may be affected by the action. As described below, NMFS believes there are circumstances relative to these criteria that warrant reinitiation of formal consultation. Accordingly, NMFS hereby withdraws its December 16, 1999, biological opinion for the Project and requests reinitiation with the Corps.

As described in the biological opinion, the no-jeopardy conclusion and terms and conditions to support that conclusion were based in part on a letter dated December 3, 1999, from Colonel Randall J. Butler, District Engineer, Portland District Corps of Engineers (Corps) to Mr. Rick Applegate, Assistant Regional Administrator of NMFS Northwest Region, amending the Corps' April 5, 1999 biological assessment. The letter described a number of measures proposed by the Corps designed to: 1) Take early action to restore critical shallow water habitat in the estuary; 2) perform a series of studies, analyses, and monitoring to verify the project's impacts and gage the effectiveness of fish protection and habitat restoration



activities; and 3) prepare a multi-year plan for estuary restoration that is closely coordinated with other parties, including the Lower Columbia River Estuary Program.

From the issuance of the biological opinion until the present time, NMFS and Corps staff have engaged in a series of meetings to reach consensus on the appropriate studies, analyses, and monitoring requirements to implement the measures described in the amended biological assessment and biological opinion. To date, our agencies have not been able to reach consensus on the specific details of some of these studies, which calls into question the conclusions in the biological opinion. As a result, we have missed the opportunity to collect baseline information during this field season. It is essential that we reach agreement and begin the studies described in the biological assessment and biological opinion so that we may better understand the projects impacts and verify that the conservation measures, including the proposed habitat restoration program, are adequate prior to commencing the Project.

Since NMFS issued its biological opinion on the Project, our Northwest Fisheries Science Center has completed further studies on the effects of bathymetry (configuration of the estuary bottom) on ecological conditions in the estuary. A report is expected later this month which addresses issues relevant to the Project, such as the effects of flow and bathymetry on shallow-water habitat at the estuary's periphery. Because these shallow-water habitats play a key role in the estuary's ability to support fish, this new information underscores the need to be sure that we understand the probable effects of the Project, and to ensure that the conservation measures provided in the biological opinion are appropriate.

NMFS is also evaluating new information which suggests that salmon may be susceptible to a wider range of sub-lethal impacts from certain contaminants, and at lower ranges of exposure, than was previously believed to be true. Some toxic chemicals can have sub-lethal effects on outmigrant juvenile salmon, including reduced growth and impaired disease resistance. The biological opinion addressed the potential for toxic chemicals to be released or redistributed to low velocity, shallow water habitats during dredging activities. Consequently, there is a need to ensure that the conservation measures provided in the biological opinion take this new information into account.

NMFS is also concerned over issues that have arisen regarding the Corps' ability to restore estuary habitat identified in the biological opinion.

In light of the need to reach agreement on required studies, to consider the new information described above, and to assess effects to newly designated critical habitat, NMFS hereby withdraws its biological opinion on the Project and requests reinitiation of formal consultation with the Corps. By reinitiating consultation NMFS expects to work closely with the Corps to: 1) Thoroughly assess the implications of any relevant new information; 2) reach agreement on the specific details of required studies and monitoring, and a schedule for conducting this work; 3) clarify expectations for the completion of restoration work; and 4) make any necessary refinements in the conservation measures, including terms and conditions, that are provided in the biological opinion to protect listed species and their designated critical habitat.

These tasks must be completed before NMFS' can re-issue a biological opinion for the Project.

We look forward to continuing our work on this project. My staff will be calling your office to arrange a meeting to scope the issues to be addressed and to develop a schedule for the reinitiation process. In the meantime, if you have any questions, please call me at (206) 526-6150.

Sincerely,

Donna Darm

 Acting Regional Administrator

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